



**Commissioners of  
St Michaels  
COSM Special Session  
June 22, 2023, 4:30 pm - 6:00 pm  
St. Michaels Branch of the Talbot Co.  
Library  
106 S. Fremont Street  
St. Michaels, MD 21663**

**AGENDA and DOCUMENTS**

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## **AGENDA**

**Commissioners of  
St Michaels  
COSM Special Session  
Thursday, June 22, 2023, 4:30 pm - 6:00 pm  
St. Michaels Branch of the Talbot Co. Library  
106 S. Fremont Street  
St. Michaels, MD 21663**

1. 4:30pm - Call to Order for a Special Session - Pledge of Allegiance

2. Announcement of Closed Session

- a. Vote for Closed Session immediately after adjournment of Open Session

The Commissioners will vote to meet in closed session today after adjournment of the Special Session pursuant to Maryland Code, under the Open Meetings Act, General Provisions Article Section §3-305 to discuss the following: (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals

3. Old Business

- a. Consideration to Approve a Purchase Contract for the Environmental Concern Property

4. Comments from the Public

5. Comments from the Commissioners

- a. Closing Statement

The Commissioners will vote to meet in closed session today after adjournment of the Special Session pursuant to Maryland Code, under the Open Meetings Act, General Provisions Article Section §3-305 to discuss the following: (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals

6. Adjournment of Open Session

At close of Open Session, COSM will convene into Closed Session

7. Adjournment of Closed Session

Public Participation: All comments from the public will be taken during the period set aside for "Comments from the Public." The "Comments from the Public" portion of the Commission agenda shall have a limited time period as determined by the Commissioners, and shall be at the beginning and at the end of each agenda. To be recognized, a member of the public should raise his or her hand and wait to be recognized by the President. Comments and questions should be kept brief and to the point, and be directed to the President.



**Board:** Town Commission

**Meeting Date:** June 22, 2023 4:30 p.m.

**Agenda Subject:** Consideration to Approve a Purchase Contract for the Environmental Concern Property

**Recommendation:** Motion to approve the attached Purchase Contract

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**Background Information:**

Over the past several weeks, Commissioners, Staff and Environmental Concern representatives have been negotiating a Purchase Contract for 7.613 acres of land that includes an administrative building, garage, meeting room, several outbuildings and waterfront access on San Domingo Creek. The \$2.9 million purchase would be established as a community park with possible open space and future park amenities as determined through a public charette process. Ultimately, the Town Commission will have the final say on what will be included in the future park master plan.

The formal closing date for the property is on September 30, 2023. The Town will issue a check for a \$290,000 deposit, or 10% of the purchase price once the contract is approved. The remaining payment of \$2,610,000 will be paid at closing.

**Action:**

If Commission members are comfortable with the agreement provisions, a motion could be made to approve the Purchase Contract for the Environmental Concern property.

## PURCHASE CONTRACT

This Purchase Contract ("Contract") is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between THE COMMISSIONERS OF ST. MICHAELS, a Maryland municipality, as Buyer, and ENVIRONMENTAL CONCERN INC., a New York corporation, registered or qualified to do business in Maryland, as Seller.

### WITNESSETH:

Seller agrees to sell and convey, and Buyer agrees to buy and accept, that plot, piece, or parcel of land described below, the real property identified herein, together with all improvements located thereon, unless specifically excluded herein, upon the following terms and conditions:

1. REAL PROPERTY: Located in the Town of St. Michaels, Talbot County, State of Maryland, being known as 201 Boundary Lane, St. Michaels, Maryland 21663 ("the Property"), also designated as Map 201, Parcel 1952, and more particularly described in Exhibit A hereto.

2. PURCHASE PRICE: The purchase price is Two Million Nine Hundred Thousand and 00/100 Dollars (\$2,900,000) (the "Purchase Price") and shall be paid as follows:

(a) Nonrefundable Deposit: Buyer shall pay to the Seller as a Nonrefundable Deposit Two Hundred Ninety Thousand and 00/100 Dollars (\$290,000.00) ("Nonrefundable Deposit"), upon Buyer's execution of this Contract. Buyer acknowledges and agrees that the Nonrefundable Deposit is consideration for the rights granted to Buyer to purchase the Property and shall be nonrefundable except as expressly provided for in Section 2(c) below. In the event of breach of this Contract by Seller, Buyer shall have the right to (i) terminate this Contract and obtain a return of the Nonrefundable Deposit, provided that Buyer is not then in default under this Contract, or (ii) initiate and prosecute an action for specific performance of this Contract. In no event will Seller be entitled to damages, actual or consequential, in the event Buyer breaches this Contract, then the Nonrefundable Deposit shall be retained by Seller as agreed and liquidated damages. Notwithstanding anything to the contrary herein or otherwise, except for a party's failure to close on the date of Closing, neither party shall have the right to declare a default by the other party and terminate this Contract because of a failure by such other party to perform under the terms of this Contract unless the other party shall fail to cure such failure to perform within 30 (thirty) days after its receipt of written notice of such failure to perform.

(b) Extension Fee:

i. Buyer shall have the option to extend the date of Closing until December 31, 2023 by (i) delivering to Seller a written notice of extension on or prior to September 30, 2023, and (ii) concurrently delivering to Seller a fee in the amount of Two Hundred Ninety Thousand and 00/100 Dollars (\$290,000.00) ("Extension Fee").

ii. Buyer acknowledges and agrees that the Extension Fee shall be nonrefundable except as expressly provided herein.

(c) Disposition of Nonrefundable Deposit and Extension Fee:

i. If the transaction contemplated by this Contract closes in accordance with the terms and conditions of this Contract, then, at Closing, the Nonrefundable Deposit and any Extension Fee paid by Buyer, if any, shall be credited toward Buyer's payment of the Purchase Price.

ii. Notwithstanding anything contained in this Contract to the contrary, Buyer acknowledges and agrees that the Nonrefundable Deposit

shall be nonrefundable to Buyer, and that if the transaction contemplated by this Contract does not close for any reason other than (i) an election by Buyer to terminate this Contract pursuant to Section 7 hereof, or (ii) upon a default by Seller (beyond the applicable notice and cure period) and an election by Buyer to terminate this Contract pursuant to Section 2(a) hereof, the entire Nonrefundable Deposit and any Extension Fee paid shall be deemed earned by Seller and Buyer shall have no right to attempt to recover any amount paid.

(d) Balance: At Closing, Buyer shall pay to Seller the Purchase Price, less the Deposit and any Extension Fee paid by Buyer, if any, plus or minus the adjustments and prorations required by this Contract, which payment shall be in the form of cash, certified funds, wired funds, Settlement Company check, or other means acceptable to Seller.

(e) Increase to Purchase Price: If Closing shall be delayed beyond September 30, 2023, the remaining balance of the Purchase Price owed shall be increased by the rate of prime +2% per annum for the period extending from September 30, 2023 until the date of Closing, which amount shall be due in full at settlement.

3. CONDITIONS: Buyer's obligation to close is contingent upon satisfaction or waiver of the following conditions:

(a) The Property must be in substantially the same or better condition at Closing as on the date Seller executes this Contract.

(b) All deeds of trust, liens, and other charges against the Property must be paid and satisfied by Seller prior to or at Closing such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.

(c) Title shall be delivered at Closing by SPECIAL WARRANTY DEED substantially in the form attached hereto as Exhibit B, by the legal description by which Seller or its predecessor acquired title (subject to any off conveyances), unless otherwise stated herein, and will be conveyed free of all encumbrances, except for the Permitted Encumbrances (hereinafter defined). Notwithstanding anything to the contrary herein or otherwise, Buyer shall promptly pay (during the term of this Contract) all taxes accruing on or after July 1, 2023.

4. STUDY PERIOD: Seller hereby grants to Buyer and Buyer's agents, employees, engineers, contractors, and surveyors the right to enter the Property upon reasonable notice to Seller, at any reasonable time for purposes of performing tests, investigations, surveys, and studies all to be performed at the sole expense of Buyer in accordance with the following conditions:

(a) Buyer shall not undertake any intrusive or invasive testing without Seller's prior written consent. Buyer shall not be permitted to meet with any governmental authorities in relation to the Property without providing prior notice to Seller and affording Seller the opportunity to participate in any such meeting, as Seller may deem necessary, in Seller's sole discretion.

(b) In the event of any damage to the Property by Buyer's agents, employees, engineers, contractors, or surveyors, Buyer shall restore the Property to the condition that existed prior to such damage. Buyer hereby indemnifies, defends and holds harmless Seller from and against any and all claims, damages, expenses, liens, and liabilities (including, without limitation, reasonable attorneys' fees and court costs) arising, directly or indirectly, from any damage to persons and/or property and Buyer shall repair any damage to the Property, resulting from or relating to, Buyer's exercise of its right of entry and inspection pursuant to this Contract or otherwise. This indemnity shall survive the termination of this Contract.

(c) Prior to entry onto the Property and throughout the course of investigations and studies conducted on the Property, Buyer and Buyer's agents and inspectors conducting such studies shall obtain and maintain comprehensive general liability insurance covering Buyer, Buyer's agents, or Buyer's inspectors, entry on the Property and i

shall be in an amount equal to Five Hundred Thousand Dollars (\$500,000.00) for any one occurrence or accident with an aggregate of Five Hundred Thousand Dollars (\$500,000.00), and shall name Seller as an additional insured thereunder. Buyer shall, if requested by Seller, provide Seller with a copy of its certificate of insurance evidencing such insurance.

(d) Buyer shall have until 5:00 pm on July 15, 2023 (the "Study Period") to determine that Buyer is satisfied with the condition of the Property (collectively "Buyer's Requirements"). If the Property fails to meet Buyer's Requirements, in Buyer's sole discretion, and Buyer delivers to Seller written notice of such failure and specific termination of the Contract prior to expiration of the Study Period, then this Contract shall thereby be terminated and neither party shall have any further rights or liabilities under this Contract except as specifically provided herein. If Buyer does not terminate this Contract by specific written notice to Seller prior to expiration of the Study Period, then, in that event, (i) Buyer's Requirements shall be deemed to be satisfied or waived, and (ii) this Contract shall remain in full force and effect. Notwithstanding anything contained herein to the contrary, Seller shall have the opportunity, but not the obligation, to be present at any testing or inspection of the Property conducted by Buyer or its agents prior to Closing, and a right, but not the obligation, to review all results of same.

(e) If Buyer shall not have elected to terminate this Contract pursuant to Paragraph 4 (d), Buyer acknowledges and agrees that it shall purchase the Property at Closing in its existing condition "AS IS, WHERE IS, AND WITH ALL FAULTS," whether known or unknown. The provisions of this Paragraph 4 (e) shall survive the Closing.

(f) Nothing contained in this Contract shall be deemed an authorization of Buyer to act as an agent of Seller in connection with the Property. Buyer and its agents and employees and other authorized designees may not contract, orally or in writing, for any services of any person that could give rise to a lien under applicable law, whether statutory or equitable, upon the Property or any portion thereof, without prior written consent of Seller separate and apart from this Contract. Buyer is hereby obligated to inform all parties performing services or materials for or on account of Buyer in connection with the exercise of its rights under this Contract, that such parties shall not be permitted to file any notice of claim of lien or lien action against the Property or any portion thereof. If requested by Seller, Buyer shall procure at Buyer's sole cost and expense, a lien waiver, in form and substance acceptable to Seller, in Seller's sole discretion, from any party performing services or providing materials for Buyer in connection with exercising its rights under this Contract.

5. PRORATIONS AND ADJUSTMENTS: Unless otherwise provided, the following items shall be prorated and either adjusted between the parties or paid at Closing: (a) Ad valorem taxes on real property shall be paid by Seller through July 1, 2023 and thereafter by Buyer; (b) Ad valorem taxes on personal property for the entire year shall be paid by the Seller; and (c) Rents, if any, for the Property shall be prorated through the date of Closing.

6. CLOSING EXPENSES: Seller shall provide and pay for all documents necessary to perform Seller's obligations under this Contract and its attorneys' fees. Buyer shall pay for (a) preparation and recording the Deed and for preparation and recording of all instruments required to secure the balance of the Purchase Price unpaid at Closing, (b) all recordation and transfer taxes, (c) its attorneys' fees, (d) all costs of a title examination, a title report, a title commitment and one or more title insurance policies, and (e) all other Closing costs, including without limitation, fees to the Settlement Agent and costs of all studies conducted pursuant to Section 4 of this Contract.

7. TITLE:

A. Seller agrees to use reasonable efforts to deliver

possible after the Seller's execution of this Contract, copies of all title information that is not already publicly available and that is in Seller's immediate possession and control, if any, including, but not limited to: title insurance policies, surveys, covenants and deeds and any other documents or information related to the Property except for proprietary information such as test fits and appraisals obtained by Seller.

B. Buyer may, at Buyer's expense, obtain a title commitment with respect to the Property from a title company selected by Buyer, with copies of all documents relating to the exceptions to insurance referred to therein (collectively, the "Title Commitment") and a current survey of the Property in such form and covering such items as Buyer may require ("Survey"). Upon receipt of the Title Commitment and Survey, Buyer shall forward copies thereof to Seller. Prior to the close of business on August 15, 2023, Buyer shall notify Seller in writing of any objection Buyer may have to any matters shown in the Title Commitment or Survey ("Notice of Objections"). The Notice of Objections shall enumerate those aspects of the Title Commitment and/or Survey which are unacceptable to Buyer, if any. Seller shall then have ten (10) days to notify Buyer in writing either (i) that Seller will not correct such objected to matters, or (ii) that Seller, at its sole cost and expense, shall undertake commercially reasonable efforts to eliminate or modify all such objected to matters. Failure by Seller to give written notice of its election within ten (10) days after receipt of the Notice of Objections shall be deemed an election by Seller not to cure the objections. In any event, except as otherwise provided herein, Seller shall be obligated to satisfy any judgment liens, mechanics' liens, open mortgages, or deeds of trust (collectively, "Monetary Liens"), and shall use commercially reasonable efforts to satisfy the objections that Seller has agreed in writing to correct on or before the date of Closing. In the event Seller notifies Buyer that it will not satisfy such objections, Buyer shall have five (5) days from the date of its receipt of Seller's response to notify Seller in writing of its option either to (i) accept title, survey and other matters subject to the objections raised by Buyer, in which event, said objections shall be deemed to be waived for all purposes, or (ii) to terminate this Contract in its entirety and receive an immediate refund of the Nonrefundable Deposit and the Extension Fee, if any. If Buyer fails to provide written notice within the five (5) day period to Seller, Buyer shall be deemed to have elected to accept title and survey subject to its objections and said objections shall be deemed to be waived for all purposes. In the event Seller elects to cure such objections and shall be unable to do so on or before the date of Closing, Buyer may: (i) waive the unsatisfied objections and proceed with Closing without any adjustment to Purchase Price, or (ii) terminate this Contract in its entirety and receive an immediate refund of the Nonrefundable Deposit and any Extension Fee paid. If Seller's inability to cure the objections prior September 30, 2023 causes a delay in closing beyond that date, Buyer shall not be obligated to Seller for payment of the amounts set forth in Section 2(e) hereof.

C. Notwithstanding anything to the contrary contained in this Section 7 or otherwise, and subject to Buyer's right to terminate this Agreement and recover its Nonrefundable Deposit and any Extension Fee, Seller's inability to cure any objected to matter(s) that Seller has agreed in writing to cure shall not constitute a default by Seller hereunder, provided that Seller has used commercially reasonable efforts to attempt to cure such matter(s) prior to Closing.

D. Buyer irrevocably acknowledges and agrees that any title or survey matters that (i) are not raised by Buyer prior to August 15, 2023 or (ii) that are waived by Buyer at or before Closing, are hereinafter collectively called "Permitted Encumbrances." It is the express understanding and agreement of the parties that Seller has not made, does not make, and hereby disclaims all representations regarding the title to the Property, except as otherwise specifically provided in this Contract.



company, Seller shall furnish at Closing an affidavit and indemnification agreement showing that all labor and materials for or on account of Seller, if any, furnished to the Property within 120 days prior to Closing have been paid for and agreeing to indemnify the Buyer's title company in the form of the Owner's Affidavit attached hereto as Exhibit C and incorporated by this reference herein.

9. **CONDITION:**

(a) Seller has not made, does not make, and hereby disclaims any and all representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of as to, concerning or with respect to (i) the value, nature, quality, or condition of the Property; (ii) the income to be derived from the Property; (iii) the suitability of the Property for any activities or uses which Buyer may conduct thereon; (iv) the Property's compliance with any laws, rules, ordinances, or regulations of any applicable governmental authority or body; (v) the habitability, marketability, or profitability of the Property; or (vi) the manner or quality of the construction or materials, if any, incorporated into the Property, not including representations regarding compliance with environmental protection, pollution, or land use; laws, rules, regulations, orders, or requirements, including the disposal or existence, in or on the Property, of any hazardous materials as defined by local, state, or federal agencies; and laws and regulations relating to hazardous substances, toxic wastes, and underground storage tanks.

(b) Seller shall remove (i) all the contents of the shed, garage, and greenhouses on the Property; (ii) the seventeen (17) cold frame greenhouses on the Property; and other than those items designated on Exhibit D hereto. All items to be removed shall be removed pursuant to the schedule attached hereto as Exhibit E, but in no event later than June 30, 2024. Seller agrees to remove all items not conveyed to the Town in the Administration Building described in Exhibit D by closing.

10. **REASONABLE ACCESS:** Upon reasonable notice, Seller will provide reasonable access to Buyer or Buyer's representatives for the purposes of appraisal, inspection, and/or evaluation in accordance with Section 4 hereof.

11. **CLOSING:** Closing shall be defined as the date and time of recording of the Special Warranty Deed (the "Closing"). Closing shall occur on or before September 30, 2023, unless Buyer elects to extend this date pursuant to Section 2(b) hereof, in which case Closing shall occur on or before December 31, 2023. Closing on the purchase and sale of the Property shall be held at the office of Eastern Shore Title Company (the "Settlement Agent"), but Closing shall not necessarily require a meeting of the parties or their representatives but may instead be conducted by delivery of documents to the Settlement Agent. Time is of the essence. The Special Warranty Deed is to be made to Buyer.

12. **POSSESSION:** Unless otherwise provided herein, possession of the Property shall be delivered at Closing.

13. **BROKERAGE:** Buyer and Seller represent and warrant to each other that no brokers' or real estate commissions will be due because of the sale of the Property. Buyer and Seller each agree to indemnify, defend, and hold the other party harmless from and against all claims, damages, or liability (including reasonable attorneys' fees) resulting from or relating to their or its breach of the foregoing representation. The terms and covenants of this Section 13 shall survive the Closing.

14. **NOTICES.** All notices required or permitted hereunder shall be given to the parties by

(1) email and (2) (a) hand-delivery or (b) USPS express overnight mail or (c) commercial overnight delivery service, with tracking, to the addresses shown below:

To the Seller: Suzanne Pittenger-Slear, President  
Environmental Concern Inc.  
201 Boundary Lane  
St. Michaels, MD 21663  
[sslear@wetland.org](mailto:sslear@wetland.org)

To the Buyer: Rob Straebel, Town Administrator  
The Commissioners of St. Michaels  
300 Mill Street  
P.O. Box 206  
St. Michaels, MD 21663  
[rstraebel@stmichaelsmd.gov](mailto:rstraebel@stmichaelsmd.gov)

With a copy to: Elissa D. Levan, Town Attorney  
Levan Ruff LLC  
2007 Tidewater Colony Drive, Suite 2B  
Annapolis, MD 21401  
[elevan@levanruff.com](mailto:elevan@levanruff.com)

Notice shall be deemed given when emailed, provided that said email is followed with physical delivery as provided herein.

15. RISK OF LOSS: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller. If the improvements on the Property are destroyed or materially damaged prior to Closing, Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds, by assignment at Closing of any policies of insurance held by Seller, to the extent any such proceeds are available and payable on account of the damage or destruction applicable to the Property being purchased, without any reduction in the Purchase Price. It is understood and agreed that Seller shall immediately have all of the insurance policies on the Property so endorsed as to protect the parties hereto as their respective interests may appear, and shall continue said insurance in force during the term of this Agreement.

16. ASSIGNMENTS: This Contract may not be assigned without the prior written consent of Seller, and, if such consent is obtained and the Contract is assigned, then this Contract shall (a) be binding on the assignee and its assigns and successors, and (b) remain the obligation of Buyer until Closing has occurred.

17. PARTIES: This Contract shall be binding upon and shall inure to the benefit of the Buyer and Seller and their heirs, successors and permitted assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

18. SURVIVAL: Covenants and agreements contained in this Contract shall be merged in the Special Warranty Deed at Closing and shall not survive the Closing, except that the obligations and/or disclaimers of the parties set forth in Sections 3, 12, 13, and 15 shall survive the Closing indefinitely.

19. ENTIRE AGREEMENT: This Contract contains the entire agreement of the parties and there are no representations, inducements, or other provisions other than those expressed herein. Without limiting the generality of the foregoing, Seller shall not be bound by, nor liable for, any warranties or other representations made by any other person, partnership, corporation, or other entity unless such representations are set forth in a written instrument duly executed by Seller. All changes, additions, or deletions hereto must be in writing and signed by all parties. Nothing contained herein shall alter any agreement between a broker and Seller or Buyer as contained in any listing agreement, buyer agency agreement, or any other agency agreement between them. If any provision of this Contract shall be in violation of any applicable law, or unenforceable for any reason, the invalidity or unenforceability of such provision shall not invalidate or render unenforceable any other provision hereof. No waiver of any of the provisions of this Contract shall be valid unless the same is in writing and is signed by the party against whom it is sought to be enforced. The waiver by one party of the performance of any covenant or condition herein shall not invalidate this Contract, nor shall it be considered a waiver by such party of any other covenant or condition herein.

20. EXECUTION: This offer shall become a binding Contract when signed by both Buyer and Seller, the latter date of which shall be the "Effective Date." This Contract is executed under seal and may be executed in two or more counterpart copies, all of which together constitute one the same instrument and the parties adopt the word "SEAL" beside their signatures below. Delivery of executed copies of this Contract by facsimile or e-mail transmission to the other party hereto shall constitute good and valid execution and delivery by the parties hereto for all purposes.

21. AUTHORITY: Buyer and Seller represent and warrant to each other that each has full authority to execute this Contract and that the joinder, consent or approval of any person or entity to this Contract or with respect to the Buyer or Seller's execution of this Contract is not required. If more than one person or entity executes this Contract as the Buyer, then all such persons and entities shall be jointly and severally liable hereunder for all obligations, covenants, and agreements of Buyer.

22. DEFINITION OF "BUSINESS DAY". The term "business day" as used herein shall mean all days of the week except Saturday, Sunday and any other days which are declared federal bank holidays in the state of Maryland. If any period of time ends, or if any act required to be performed, on a day other than a business day, the applicable period time shall be deemed to expire on, or the date required for the performance for the appropriate obligation shall be deemed to be extended to, the next business day following the applicable date of performance.

23. GOVERNING LAW. This Contract shall be interpreted and construed under the laws of the State of Maryland. Any suit related to or arising out of this Contract shall be brought exclusively in the courts of the State of Maryland in and for Talbot County, unless such courts determine that they lack jurisdiction, and the parties acknowledge that venue is proper therein.

24. ATTORNEY'S FEES. In any litigation or other legal proceeding that may arise between the a) Seller and the Buyer, the prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees, in addition to any other relief to which such party may be entitled.

25. INDEPENDENT COUNSEL. Each party acknowledges that it has had the opportunity to have this Contract and the transaction contemplated hereunder reviewed by independent legal counsel of such party's choice, and each party acknowledges that it is entering into this

Contract as its free and voluntary act. No provision of this Contract shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.

26. RECORDATION. Neither this Contract nor any memorandum or other summary of this Contract shall be placed of record under any circumstances except with the prior written consent of Seller, which consent may be withheld at Seller's sole discretion.

27. NO JOINT VENTURE OR PARTNERSHIP. This Contract is not intended, nor shall it be construed to create a joint venture or partnership between the parties and neither party shall constitute the agent of the other for any purpose.

28. WAIVER OF JURY TRIAL. SELLER AND BUYER KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTION OF EITHER PARTY IN CONNECTION WITH THE SUBJECT MATTER OF THIS CONTRACT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SELLER AND BUYER ENTERING INTO THIS CONTRACT.

**WITNESS**

**ENVIRONMENTAL CONCERN, INC.**

\_\_\_\_\_

\_\_\_\_\_(SEAL)

Suzanne Pittenger Slear, President

Date: \_\_\_\_\_

**THE COMMISSIONERS OF ST.  
MICHAELS**

\_\_\_\_\_  
Vicki Sharp, Town Clerk

BY: \_\_\_\_\_(SEAL)

David Breimhurst, President

Date: \_\_\_\_\_

Approved for form and legal sufficiency  
this \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Elissa D. Levan, Town Attorney

EXHIBIT A  
LEGAL DESCRIPTION

of the land of

**ENVIRONMENTAL CONCERN INC.**

BEING KNOWN AS TAX MAP 201, PARCEL 1952  
in the Second Election District, Talbot County, Maryland

All that lot, piece, or parcel of ground lying on the Northwest side of Boundary Lane:

**BEGINNING** at a capped rebar set on the northwestern right of way line of Boundary Lane; thence with the said northwestern right of way line of Boundary Lane

(1) S 65°28'07" W a distance of 663.07' to a capped rebar set on the division line of the land of Michael Priddy & Shannon Priddy (deed ref. Liber 2730, folio 152); thence with the said division line of the land of Michael Priddy & Shannon Priddy and the herein described land the following two (2) courses and distances:

(2) N 09°06'15" W a distance of 215.96' to a capped rebar found; thence

(3) S 88°13'45" W a distance of 145.00' to a point on the approximate mean high water line of San Domingo Creek; thence with the said approximate mean high water line of San Domingo Creek the following eighteen (18) courses and distances:

(4) N 42°09'22" W a distance of 21.65' to a point; thence

(5) N 18°54'57" W a distance of 41.42' to a point; thence

(6) N 24°01'03" W a distance of 32.31' to a point; thence

(7) N 34°08'01" W a distance of 29.92' to a point; thence

(8) N 20°07'26" W a distance of 33.07' to a point; thence

(9) N 11°37'24" W a distance of 33.34' to a point; thence

(10) N 03°09'54" W a distance of 34.36' to a point; thence

(11) N 13°40'21" E a distance of 23.73' to a point; thence

(12) N 20°19'22" E a distance of 23.02' to a point; thence

(13) N 26°07'53" E a distance of 19.73' to a point; thence

(14) N40°16'24"E a distance of 20.44' to a point; thence

(15) N 56°05'46" E a distance of 19.54' to a point; thence

(16) N 02°35'59" W a distance of 19.56' to a point; thence

(17) N 12°18'25" W a distance of 14.26' to a point; thence

(18) N 10°16'48" E a distance of 13.64' to a point; thence

(19) N 04°18'08" E a distance of 75.57' to a point; thence

(20) N 05°03'28" W a distance of 29.02' to a point; thence

(21) N 08°02'48" W a distance of 23.99' to a point; said point being on the division line of the land of the State of Maryland for the use of the State Highway Administration of the Department of Transportation (deed ref.: Liber 876, Folio 873); thence with the said division line of the State of Maryland and the herein described land the following four (4) courses and distances:

(22) N 63°44'29" E a distance of 90.00' to a point; thence

(23) N 07°25'53" E a distance of 18.03' to a point; thence

(24) N 63°44'29" E a distance of 57.74' to a point; thence

(25) S 54°09'08" E a distance of 833.23' to the point of beginning, said herein described land containing an area of 7.613 acres more or less.

Prepared under my direct supervision in accordance with 09.13.03.08 and 09.13.03.12 of the Annotated Code of Maryland.



Steven W. Whitten

Professional Land Surveyor MD. 21326 Current

License Expires / Renews: 1/8/2025



EXHIBIT B  
SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by ENVIRONMENTAL CONCERN INC ("Grantor"), with its principal address at \_\_\_\_\_ to THE COMMISSIONERS OF ST. MICHAELS, (the "Grantee"), a Maryland municipal corporation, with its offices at 300 Mill Street, St. Michaels, Maryland 21157.

In consideration of the sum of Two Million Nine Hundred Thousand and 00/100 Dollars (\$2,900,000.00), the receipt of which is hereby acknowledged, the Grantor does hereby grant, convey and assign unto the Grantee and its successors and assigns, in fee simple, all of that lot of ground situate, lying and being in Talbot County, Maryland and being more particularly described on Exhibit A attached hereto and made a part hereof (the "Property").

TOGETHER with the buildings and improvements thereupon, and the rights, alleys, ways, waters, privileges, appurtenances, and advantages to the same belonging or in any wise appertaining.

TO HAVE AND TO HOLD the Property, together with the buildings and improvements thereupon, and the rights, alleys, ways, waters, privileges, appurtenances, and advantages to the same belonging or in any wise appertaining, unto the use and benefit of the Grantees, in fee simple.

AND the Grantor covenants that it will warrant specially the Property hereby conveyed.

AND the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor only, other than the following exceptions:

Ad valorem property taxes for the current and subsequent years (prorated through the date of Closing); easements; rights of way; restrictions; and conditions of record and matters visible from an inspection of the Property or reflected on an accurate survey of the Property; any local, county, state, or federal laws; and, ordinances or regulations relating to zoning, environment, subdivision, occupancy, use, construction, or development of the Property, including existing violations of said laws, ordinances or regulations.

THIS SPECIAL WARRANTY DEED is executed and delivered as of this \_\_\_\_ day of \_\_\_\_\_, 2023.

STATE OF MARYLAND)  
COUNTY OF TALBOT), TO WIT:

I HEREBY CERTIFY that, on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public of the jurisdiction aforesaid, personally appeared \_\_\_\_\_, known or satisfactorily proven to me to be the same, and further acknowledged that he or she, as \_\_\_\_\_ of Environmental Concern Inc. (ECI) executed the foregoing instrument on behalf of said ECI by signing his or her name above.

IN WITNESS MY Hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

After Recordation, Return To:



EXHIBIT C

OWNER'S AFFIDAVIT

COUNTY OF TALBOT  
STATE OF MARYLAND, to wit:

On this \_\_\_\_ day of \_\_\_\_\_, 2023, personally appeared \_\_\_\_\_, as the agent and representative of Environmental Concern LLC ("Owner"), owner of the real property hereinafter described, to me personally known or satisfactorily proven to be such person, who, being duly sworn, does say that at no time within 120 days the date hereof, has any person(s), firms(s), and/or corporation(s) furnished any services, labor, or materials, or placed materials on the hereinafter described property by reason of any act taken by the Owner, or its agents, representatives or assigns, that have been used, or are to be used, in any construction or repair of any improvements located thereon, and that the Owner has not taken any action resulting in any mechanics' or materialmen's liens against said property and there are no claims outstanding which would entitle the holder thereof to claim a lien against the property.

Further, that there are no financing statements, chattel mortgages, conditional bills of sale or retention of title agreements imposed against the property affecting any fixture or any cabinets, mantels, awnings, doors, or windows or screens therefor or any plumbing, lighting, heating, cooking, refrigeration, ventilating, or air conditioning equipment or apparatus used separately or in combination as packaged units or installations in connection with the improvements located on the hereinafter described property, and

That this affidavit is made for the purpose of having \_\_\_\_\_ issue its policy or policies insuring the title to said property without exception to claim(s) of mechanics or materialmen, and/or laborers, they do hereby agree to indemnify and hold the Commissioners of St. Michaels harmless of and from any and all loss, cost, damage, and expense of every kind, including attorney's fees, which it shall or may suffer or incur or become liable for under its said policy or policies arising, directly or indirectly, out of any improvements, repairs, or other construction by them or at our request on the property hereafter described or on account of any such mechanics' or materialmen's lien or liens or claim or claims.

The real estate improvements referred to herein are situated in Talbot County, State of Maryland and are briefly described as:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

IN TESTIMONY WHEREOF, the said \_\_\_\_\_ of Environmental Concern Inc., has caused this instrument to be executed on the day and year first above written on behalf of the Company.

By: \_\_\_\_\_ (SEAL)  
[INSERT NAME]

STATE OF MARYLAND)

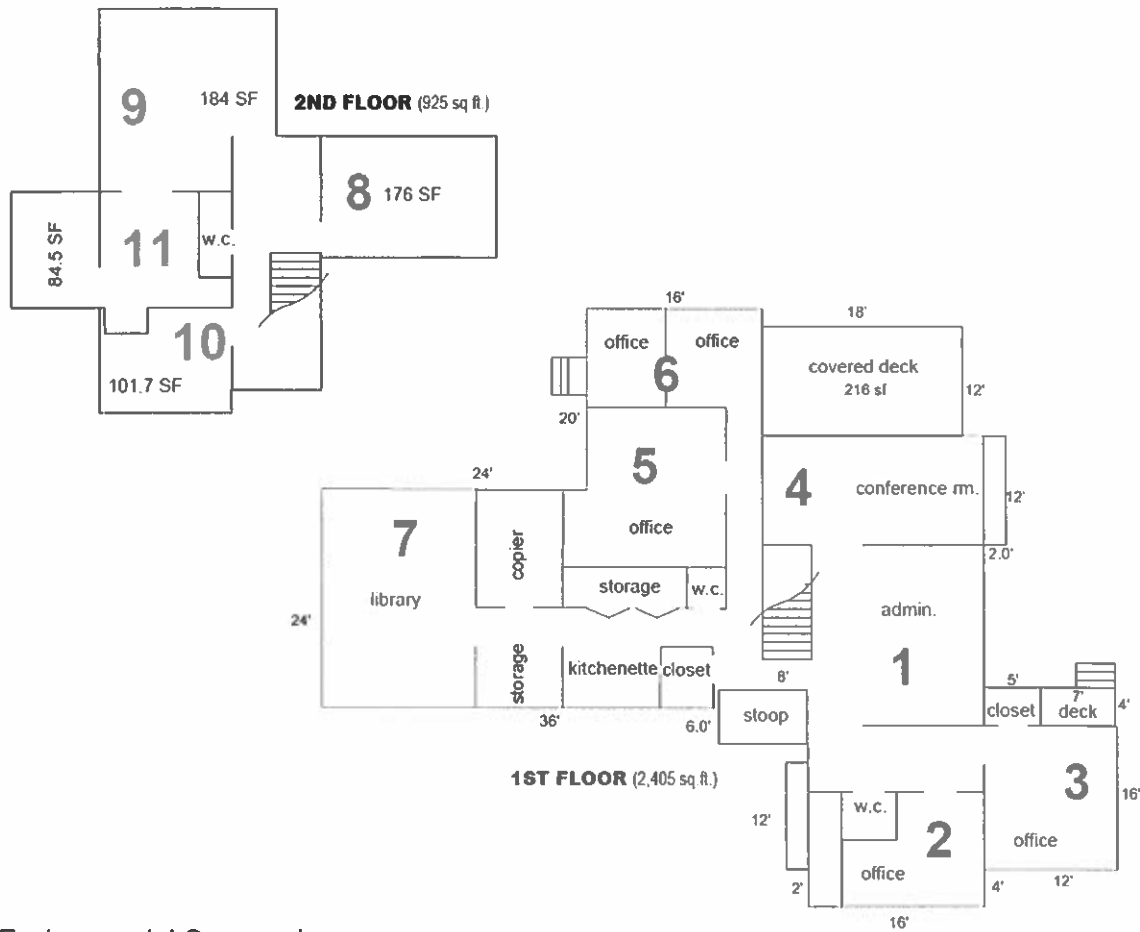
COUNTY OF CARROLL), TO WIT:

I HEREBY CERTIFY that, on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public of the jurisdiction aforesaid, personally appeared \_\_\_\_\_, known or satisfactorily proven to me to be the same, and further acknowledged that he or she executed the foregoing instrument by signing his or her name above.

IN WITNESS MY Hand and Notarial Seal.

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ADMINISTRATIVE OFFICES (approx. 3,330 sq.ft.)



Environmental Concern Inc.  
June 2023 (note: all measurements are approximate)

**SCALE: 1" = 12 ft**

Environmental Concern Inc.  
Admin. Office Bldg.

| NO  | Name                     | Notes   |
|-----|--------------------------|---|
| 1   | admin.                   | Reception desk, assoc. file cabinets, and built-in wall unit convey to TOSM.  |
| 2   | office                   | Two drawer lateral file cabinets (2) with wood credenza top convey to TOSM.   |
| 3   | office                   | Two drawer, built-in lateral file cabinets (3), built-in bookcase/cabinets, and executive desk & assoc. credenza all convey to TOSM                   |
| 4   | Confer.Rm.               | Table conveys to TOSM. Two drawer lateral file cabinets (5) avail. for purchase.  |
| 5   | Office                   | Desk w/return conveys to TOSM. Five drawer lateral file cabinets (5), & two drawer lateral file cabinets (2) avail. for purchase.                     |
| 6   | Office(s)                | Desks (2) convey to TOSM. Five drawer lateral file cabinet (1) & two drawer lateral file cabinet (1), avail. for purchase.                            |
| 7   | Library                  | Conference table and assoc. two drawer lateral file available for purchase \$2,000.00   |
| 8   | Office                   | No furniture or files convey. The office desk, furniture and files cabinets are not available for purchase.   |
| 9   | Office                   | Built-in flat files convey to TOSM. The office desk, furniture and file cabinets are not available for purchase.                                      |
| 10  | Office                   | Built-in desk top conveys to TOSM. Five drawer lateral file cabinet is not available for purchase.  |
| 11  | IT room.                 | Attached shelving & built-in, and digital telephone switch w/ desktop sets convey to TOSM. Specific computer hardware & switches avail. for purchase. |
| n/a | 2 <sup>nd</sup> fl. hall | White boards convey to TOSM. Two drawer lateral file cabinets (4) are not available for purchase.   |

## EXHIBIT E

### Schedule for Removing Items

Seller shall remove all the contents of the shed, garage, greenhouses, and cold frames on the Property, other than those items designated on Exhibit D hereto.

Buyer recognizes that Seller will continue the nursery operation on the property after settlement, and grants Seller permission to utilize the first floor of the Nursery building and the nursery facilities without charge for a period not to exceed nine months after settlement.

It is Seller's intention to begin the above referenced removal no later than June 30, 2023.

The order of this removal is as follows:

- Decommission and remove the glass greenhouses (2) and foundations to below grade level; grade the footprint so as to transition to surrounding grade; seed the disturbed areas.
- Consolidate nursery product in eight coldframes. Decommission and remove the eight empty coldframes; grade the footprint so as to transition to surrounding grade; seed the disturbed areas.
- Relocate nursery product to new nursery facility. Decommission and remove remaining coldframes; grade the footprint so as to transition to surrounding grade; seed the disturbed areas.
- Remove machinery and equipment, and all content from potting shed.
- Remove contents from the garage and the lower shed.
- Remove equipment and furnishings from the first floor of the Nursery Building.

Seller will make every effort to vacate the property by March 31, 2024, but no later than June 30, 2024. Seller will pay electric costs until Seller vacates the property.

**PRESIDING OFFICER'S WRITTEN STATEMENT FOR CLOSING A MEETING ("CLOSING STATEMENT")  
UNDER THE OPEN MEETINGS ACT (General Provisions Article § 3-305)**

**This form has two sides. Complete items 1 – 4:**

- 1. Recorded vote to close the meeting:** Date: 6-22-2023; Time: \_\_\_\_; Location: Library;  
Motion to close meeting made by: \_\_\_\_\_ Seconded by \_\_\_\_\_;  
Members in favor: \_\_\_\_\_; Opposed: \_\_\_\_\_;  
Abstaining: \_\_\_\_\_; Absent: \_\_\_\_\_.

- 2. Statutory authority to close session (check all provisions that apply):**

**This meeting will be closed under General Provisions Art. § 3-305(b) only:**

- (1) ☒ "To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals";
- (2) \_\_\_\_ "To protect the privacy or reputation of individuals concerning a matter not related to public business";
- (3) \_\_\_\_ "To consider the acquisition of real property for a public purpose and matters directly related thereto";
- (4) \_\_\_\_ "To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State";
- (5) \_\_\_\_ "To consider the investment of public funds";
- (6) \_\_\_\_ "To consider the marketing of public securities";
- (7) \_\_\_\_ "To consult with counsel to obtain legal advice";
- (8) \_\_\_\_ "To consult with staff, consultants, or other individuals about pending or potential litigation";
- (9) \_\_\_\_ "To conduct collective bargaining negotiations or consider matters that relate to the negotiations";
- (10) \_\_\_\_ "To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans";
- (11) \_\_\_\_ "To prepare, administer, or grade a scholastic, licensing, or qualifying examination";

(12)\_\_\_ “To conduct or discuss an investigative proceeding on actual or possible criminal conduct”;

(13)\_\_\_ “To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter”;

(14)\_\_\_ “Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.”

**3. For each provision checked above, disclosure of the topic to be discussed and the public body’s reason for discussing that topic in closed session.**

| Citation<br>(insert #<br>from above) | Topic | Reason for closed-session discussion of topic (do<br>not merely cite exception listed above – be specific<br>enough so that the public understands why the<br>closed session is necessary but not so specific as to<br>undermine the confidentiality of the closed<br>session)                                  |
|--------------------------------------|-------|---|
| §3-305(b) (1)                        |       | To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals |
| §3-305(b) ( )                        |       |   |
| §3-305(b) ( )                        |       |   |
| §3-305(b) ( )                        |       |   |
| §3-305(b) ( )                        |       |   |

**4. This statement is made by \_\_\_\_\_,  
Presiding Officer.**

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**WORKSHEET FOR OPTIONAL USE IN CLOSED SESSION: INFORMATION THAT MUST BE DISCLOSED  
IN THE MINUTES OF THE NEXT OPEN MEETING OR UPON CONVENING IN OPEN SESSION AFTER  
THE CLOSED SESSION:**

Time of closed session: \_\_\_\_\_ Place: \_\_\_\_\_

Purpose(s): \_\_\_\_\_

Members who voted to meet in closed session: \_\_\_\_\_

Persons attending closed session: \_\_\_\_\_

Authority under § 3-305 for the closed session: \_\_\_\_\_

Topics actually discussed: \_\_\_\_\_

Actions taken: \_\_\_\_\_ Each recorded vote: \_\_\_\_\_

\_\_\_\_\_

**For a meeting recessed to perform an administrative function (§ 3-104):** Time: \_\_\_\_\_

Place: \_\_\_\_\_ Persons present: \_\_\_\_\_

Subject matter discussed: \_\_\_\_\_